

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**December 18, 2007**

**DIVISION ONE**

Court convened at 9:00 a.m.

Present: Vogel (Miriam A.), Acting P.J., Rothschild, J., Jackson, J. (Assigned) and P. Gonzalez, Deputy Clerk.

In open court, Vogel (Miriam A.), Acting P.J., announces that Mallano, J., is absent from oral argument, but will be listening to a copy of the recording of today's arguments. Any counsel with an objection to this should so state, and their matter will be continued.

Each of the following:

B193004 People v. Pitts  
B194130 Holmgren v. County of Los Angeles  
B193004 People v. Pitts  
B193816 People v. Christian S./Levy R.  
B194330 People v. Martinez  
B195169 People v. Johnson  
B195202 People v. Levi  
B195902 People v. Hagan  
B196149 People v. Rubalcaba et al.  
B196326 People v. Calbert  
B196538 People v. Spears  
B196016 DCFS v. Alba C.  
B197065 DCFS v. Shelli B. & Larry C.  
B197430 DCFS v. Gregory P.  
B199002 DCFS v. Reshawn J.  
B199261 DCFS v. Merlinda O.  
B199911 DCFS v. Linda A.

DIVISION ONE (continued)

Each of the following (continued):

B200538 DCFS v. H.R.  
B198806 DCFS v. Hobbie D.

Argument waived, cause submitted.

Each of the following:

B194130 Holmgren v. County of Los Angeles  
B194524 General Electric Capital Corp. v. Huxley  
B196225 Cook v. McGrath

Oral argument continued to January 23, 2008.

Each of the following:

B186044 Woods v. Union Pacific Railroad Company  
B192044 Ahrens v. University of La Verne  
B193621 Sullens v. Sullens

Oral argument continued to January 24, 2008.

Each of the following:

B196405 21st Century v. State Farm Insurance  
B197960 Wedemeyer v. Safeco Insurance Co.

Matters ordered off calendar.

DIVISION ONE (continued)

B193314 Gary Belz  
v.  
Clarendon America Insurance Company

Merits:

Argued by Ralph C. Loeb for appellant and by Karen-Denise Lee for respondent. Cause submitted.

B202809 Earlika C.  
v.  
Superior Court, Los Angeles County  
(Department of Children and Family Services, r.p.i.)

Merits:

Argued by Earlika C., petitioner in propria persona and by Deputy County Counsel Judith Luby for real party in interest. Cause submitted.

B196570 Jarnail Sagra Nagra  
v.  
Johnny Yen-Li Teng

Merits:

No appearance for appellant and argument having been previously waived by respondent. Cause submitted.

B194649 Rocco Cimarusti et al.  
v.  
Transcontinental Insurance Company

Merits:

Argued by Stuart B. Esner for appellants and by Gregory P. Scher for respondent. Cause submitted.

DIVISION ONE (continued)

B195244 Eugene Burke  
v.  
City of Santa Monica et al.

Merits:

Argued by Jeanette Schacter for respondent City of Santa Monica and by Kim Nguyen for respondent Lisa Green. Jeffrey T. Bell appears for appellant without presenting argument. Cause submitted.

B192307 Liza Pagador Abcede et al.  
v.  
Taro Yokoyama et al.

Merits:

Argued by Garry Moses for appellants and by Daniel K. Dik for respondent Taro Yokoyama; Susan Schmid for respondent A. Injijian and Kevin Tanaka for respondent St. Vincent Medical Center. Cause submitted.

Vogel (Miriam A.), Acting P.J., leaves the bench.

B190475 Tri-Tech Landis Restoration  
v.  
Bradley Landis et al.

Merits:

Argued by Barry Florence for appellants and by Charlotte Costan for respondent. Submission deferred until January 15, 2008, pending settlement negotiations.

Vogel (Miriam A.), Acting P.J., returns to the bench.

DIVISION ONE (continued)

B191052     Anahid Mnaskian  
              v.  
              21st Century Insurance

Merits:

Argued by J. Al Latham Jr. for appellant and by Nancy P. Doumanian for respondent. Cause submitted.

Court adjourned.

B194125     Odimbur  
              v.  
              American First Financial et al.

Filed order vacating submission order of November 20, 2007, to allow supplemental briefing. The case shall be resubmitted on January 15, 2008

DIVISION TWO

B197129     Los Angeles County, D.C.S.     (Not for Publication)  
              v.  
              Christina H.

The order is affirmed.

Doi Todd, J.

We concur:    Boren, P.J.  
                      Chavez, J.

December 18, 2007 (Continued)

## DIVISION TWO (continued)

B194700 People (Not for Publication)

V.  
Vidal

The conviction of count 6 is reversed and the judgment is otherwise affirmed. On remand, the trial court is directed to modify the abstract of judgment accordingly.

Doi Todd, J.

We concur:   Boren, P.J.  
                   Ashmann-Gerst, J.

B197993 Snyder et al. (Certified for Publication)

v.  
SCLA  
Caterpillar Inc. et al.

The alternative writ is discharged and the stay is dissolved. Let a peremptory writ of mandate issue directing the superior court to set aside and vacate its order of January 31, 2007, granting real party in interest Caterpillar's General Order 29 motion to dismiss and to enter a new order denying the motion. The Snyders are to recover the costs of this petition.

Ashmann-Gerst, J.

We concur: Doi Todd, Acting P.J.  
Chavez, J.

DIVISION TWO (continued)

B193500      Communities for a Better Environment    (Not for Publication)  
                 v.  
                 SCAQM D et al.  
                 Conocophillips Company

The judgment denying appellants' petition for writ of mandate is reversed to the extent it concluded that appellants had not presented a fair argument that NOx emissions from the ULSD project created a potentially significant adverse environmental impact. In all other respects, the judgment is affirmed and the matter is remanded to the trial court to direct the SCAQMD to reevaluate the potential environmental significance of the NOx emissions resulting from the project in a manner that is consistent with the views expressed herein. Parties to bear their own costs on appeal.

Doi Todd, J.

We concur:    Boren, P.J.  
                 Ashmann-Gerst, J.

B195728      Stellar et al.  
                 v.  
                 State General Insurance Co.

Filed order certifying opinion for publication.

DIVISION THREE

B194560      Adigwe      (Not for Publication)

v.

Nwadiwe

The judgment is affirmed. Adigwe shall receive costs on appeal.

Klein, P.J.

We concur:    Kitching, J.

Aldrich, J.

B203056      L.A. County Dept. of Children & Family Svcs. (Not for Publication)

v.

Superior Court, Los Angeles County

(Deshawn W., et al., r.p.i.)

The petition is granted; the order to show cause is discharged. Let a writ of mandate issue directing the juvenile court to vacate the order placing James W. V in the care of paternal grandmother and enter a new order consistent with the views expressed herein.

Klein, P.J.

We concur:    Kitching, J.

Aldrich, J.

B195981      Stephanie Ray

v.

Cingular Wireless

Appellant's second petition for rehearing is denied.



DIVISION THREE (continued)

B188533      People  
                 v.  
                 Jonathan Ming Chiu

Filed order granting petition for rehearing.

DIVISION FOUR

B198821      American Environmental Safety Institute      (Not for Publication)  
                 v.  
                 The Procter & Gamble Distributing company et al.

The order denying AESI's motion for attorney fees is affirmed. The Attorney General shall have costs on appeal.

Manella, J.

We concur: Willhite, Acting P.J.  
                 Suzukawa, J.

B192223      Fuerte, et al.      (Not for Publication)  
                 v.  
                 Kim, et al.

The order appealed from is affirmed.

Willhite, J.

We concur: Epstein, P.J.  
                 Suzukawa, J.

DIVISION FOUR (continued)

B193655      Renaissance Academy Charter High School      (Not for Publication)

v.

Westside Medical Park, LLC, et al.

The order of July 11, 2006, denying the anti-SLAPP motion, is affirmed.  
Respondent shall have costs on appeal.

Manella, J.

We concur:   Epstein, P.J.  
                     Suzukawa, J.

B190552      Redevelopment Agency of the City of Long Beach, California

v

Morales, et al.

Filed order modifying opinion. Petition for rehearing is denied.  
(No Change in Judgment)

DIVISION FIVE

B197801      People      (Not for Publication)

v.

Carlos Dominguez

The judgment is reversed as to count 2. The sentence as to count 1 is stayed pursuant to Penal Code section 654, subdivision (a). The judgment is modified to impose the three Penal Code section 1465.8, subdivision (a) fines and the \$200 Penal Code section 1202.45 restitution fine, which is stayed. The judgment is affirmed in all other respects.

Turner, P.J.

We concur:   Armstrong, J.  
                     Kriegler, J.

DIVISION FIVE (continued)

B195368      Genoa Peak                      (Not for Publication)

v.

County of Los Angeles, et al.

The judgment in favor of the County is affirmed. As to the individual defendants, the judgment is affirmed as to the causes of action for negligence, battery, intentional infliction of emotional distress, and false arrest and false imprisonment, and on the claim for punitive damages. It is reversed as to the cause of action under 42 United States Code section 1983, but only insofar as plaintiff contends that her constitutional rights were violated by the traffic stop. Parties to bear their own costs on appeal.

Armstrong, J.

We concur: Turner, P.J.

Mosk, J.

B196176      Kim

v.

SCPIE Companies et al

Filed order denying petition for rehearing.

B194414      People

v.

Joshua Mansion and Dwayne Wheeler

Appellant Wheeler's petition for rehearing denied by operation of law (CRC 8.268 [c]).

DIVISION SIX

[illegible]

The judgment (order denying motion to dismiss) is affirmed.

Yegan, J.

We concur: Gilbert, P.J.  
Perren, J.

B190338      Toll      (Not for Publication)  
v.  
Ginsburgh

The judgment is affirmed. Costs on appeal are awarded to respondent.

Coffee, J.

We concur: Gilbert, P.J.  
Perren, J.

B193570 People (Not for Publication)  
v.  
Mendoza

The judgment is affirmed.

Yegan, Acting P.J.

We concur: Coffee, J.  
Perren, J.

December 18, 2007 (Continued)

## DIVISION SIX (continued)

B197612 People (Not for Publication)  
v.  
Atkins

The judgment is affirmed.

Yegan, Acting P.J.

We concur: Coffee, J.  
Perren, J.

[illegible]

The judgment is affirmed.

Perren, J.

We concur:    Gilbert, P.J.  
                              Yegan, J.

B191255 People  
v.  
Nevarez

Filed order denying petition for rehearing.

B194107      People  
v.  
Clifton

Filed order denying petition for rehearing.

## DIVISION SIX (continued)

B190414      People  
v.  
Zavala

Filed order denying petition for rehearing.

## DIVISION SEVEN

B193436 People (Not for Publication)  
v.  
Carranza

The judgment is affirmed.

Woods, J.

We concur: Perluss, P.J.  
Zelon, J.

[illegible]

The judgment is affirmed.

Woods, J.

We concur: Perluss, P.J.  
Zelon, J.

## DIVISION SEVEN (continued)

B194693 People v. Daugherty (Not for Publication)

The judgment is affirmed.

Woods, J.

We concur: Perluss, P.J.  
Zelon, J.

[illegible]

The judgment is affirmed.

Woods, J.

We concur: Perluss, P.J.  
Zelon, J.

B194531 People (Not for Publication)  
v.  
Herrera

The judgment is affirmed.

Woods, J.

We concur: Perluss, P.J.  
Zelon, J.

December 18, 2007 (Continued)

## DIVISION SEVEN (continued)

B186954 People (Not for Publication)  
v.  
C. Jackson

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The judgment is affirmed.

Woods, J.

We concur: Perluss, P.J.  
Zelon, J.

B193062      People                                (Not for Publication)  
v.  
R. Jackson

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The judgment is affirmed.

Woods, J.

We concur: Perluss, P.J.  
Zelon, J.

B193009 People (Not for Publication)  
v.  
Maldonado

The judgment is affirmed.

Perluss, P.J.

We concur: Zelon, J.  
Wiley, J. (Assigned)



December 18, 2007 (Continued)

DIVISION SEVEN (continued)

B194152 People (Not for Publication)  
v.  
Jose V.

The judgment is affirmed.

Zelon, J.

We concur: Perluss, P.J.  
Wiley, J. (Assigned)

B198590 People (Not for Publication)  
v.  
Barragan

The judgment is affirmed.

Woods, J.

We concur: Perluss, P.J.  
Zelon, J.

B195698 People (Not for Publication)  
v.  
McGee

The judgment is affirmed.

Perluss, P.J.

We concur: Woods, J.  
Zelon, J.

December 18, 2007 (Continued)

## DIVISION SEVEN (continued)

[illegible]

The judgment is affirmed.

Perluss, P.J.

We concur: Woods, J.  
Wiley, J. (Assigned)

B188851 People (Not for Publication)  
v.  
Moody

The judgment is affirmed.

Perluss, P.J.

We concur: Woods, J.  
Wiley, J. (Assigned)

## DIVISION EIGHT

B192447 People (Not for Publication)  
v.  
Sonya Howard

The judgment is affirmed.

Flier, J.

We concur: Cooper, P.J.  
Rubin, J.